

**REMARKS**

Reconsideration and allowance of this application are respectfully requested in view of the above Amendment and the discussion below.

Applicant's invention concerns a tail pipe orifice fastened to a rear covering part of an automobile, wherein the entirety of the tail pipe orifice is spaced apart from and does not contact the tail pipe in order to minimize heat transfer between the tail pipe and the tail pipe orifice.

The invention defined by the claims includes an air inlet section larger than the cross-section of the tail pipe, a transition section between the inlet and the outlet opening having a tapered cross-section and an outlet opening position downstream from the inlet opening. The entirety of the air inlet section is spaced apart from the tail pipe in order to minimize the heat transfer.

Claims 1-2, 4-6, 9-11, 13-15 and 17-20 have been rejected under 35 U.S.C. §102 as anticipated by Ebinger et al. (U.S. Patent No.: 6,595,318) based on the analysis contained at item 6 on pages 3 and 4 of the patent Office Action. Claims 3, 7, 8, 12 and 16 have been objected to as dependent upon a rejected base claim but containing allowable subject matter if rewritten in independent form including the limitations of the base claim and any intervening claims.

Applicants respectfully traverse this rejection on the grounds that amended independent claims 1 and 13 define structure which is not shown or disclosed or made obvious by the reference to Ebinger.

Ebinger '318 has a tail pipe orifice 1, as shown in Figure 1 with an inside pipe section 5 fitted directly onto the tail pipe 2. Additionally, the fastening device 13, 14 directly connects the tail pipe orifice 1 with the tail pipe 2. Therefore, with this construction, there is a direct heat transfer between the tail pipe 2 and the tail pipe orifice 1 because of the direct connection.

In contrast, the present invention has a tail pipe orifice 7 which is only fastened to the rear cover part 1 so that a heat transfer from the tail pipe 3 to the tail pipe orifice 7 is minimized because there is no mechanical contact. The inner shell 13 is spaced a distance RA from the tail pipe 3.

Therefore, according to the invention as claimed by independent claims 1 and 13 no contact exist between the tail pipe orifice 7 and the tail pipe 3 so that this orifice remains relatively cool and can therefore be fastened to the rear covering part of the automobile which can then consist of a plastic material.

Additionally, each of independent claims 1 and 13 describe a tapered transition section 11 whereas the tail pipe orifice of the '318 patent has an inner pipe 5 with a straight construction without any cross-sectional tapering.

Claim 1 has been amended to recite the functional result of the tail pipe orifice being separated from the tail pipe so that it only communicates in a non-contacting manner whereby heat transfer is minimized between the tail pipe and the tail pipe orifice. Similarly, claim 13 recites that the entirety of the air inlet section is spaced apart from the tail pipe in a non-contacting manner in order to minimize the heat transfer.

It is thus submitted that independent claims 1 and 13 define structure not shown or disclosed or made obvious by Ebinger '318.

In response to the objection to claim 11 as lacking an antecedent basis for "said covering part", Applicants have amended claim 11 so that it now depends from claim 5.

Therefore, Applicants submit that this application now contains claims which are allowable and request that this application be passed to issue containing claims 1-20.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #028987.52806US).

Respectfully submitted,

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